

## Fund Tax Reporting News

### German fund tax regime—Change to WHT reclaim procedure for non-German investment funds is expected as from 1 July 2021

**12 March 2021**

Due to an upcoming change to the German Investment Tax Act (GITA), the WHT refund procedure according to sec. 7 para. 5 GITA may no longer be accessible for non-German investment funds as from 1 July 2021. After this date, non-German investment funds will most likely need to use the more complex WHT reclaim procedures according to sec. 11 GITA respectively according to sec. 50d para. 1 of the German Income Tax Act.

As a background: if German dividends are paid during the period in which a status certificate exists but has not yet been provided, the entity responsible for withholding the tax will apply the German WHT rate of 26.375% rather than the reduced rate of 15%.

Sec. 7 para. 5 GITA states that if a status certificate is provided retroactively (within 18 months of the German dividend payment and covering the time of the payment) to the entity that has withheld the tax, this entity is obliged to refund the difference between the full and reduced rate if the full rate has been applied.

The refund procedure according to sec. 7 para. 5 GITA is relatively straightforward to use if status certificates are issued after the beginning of their validity period. The two main cases are:

- (First) applications where the status certificate is backdated (up to six months before the issuing date); and
- Renewal applications that are filed in time but where the status certificate is issued after the preceding status certificate's validity period expires.

For all cases in which a status certificate is provided with retroactive effect, we would recommend that you:

1. Check for German dividends paid during the period covered by the status certificate where the full German WHT rate of 26.375% has already been applied.
2. If any dividend payments have been identified in step 1, contact your German depository and ask for a refund according to sec. 7 para. 5 GITA as soon as possible (before 1 July 2021).

Please do not hesitate to contact us if you have any questions or need assistance.

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